

**GOVERNMENT OF TELANGANA
ABSTRACT**

BACKWARD CLASSES WELFARE DEPARTMENT – Appeal Petition filed by Sri Tati Venkata Siva Kumar, R/o Venkatapuram, U/s 7 (4) of the under Telangana (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993) against the orders of the District Collector, Khammam District for cancellation of his Caste Certificate – Appeal rejected – Proceeding of the District Collector, Khammam District confirmed - Orders – Issued

BACKWARD CLASSES WELFRARE (OP) DEPARTMENT

G.O.Ms.No. 7

Date:19.03.2018

Read the following:

1. Application of Sri N.Ravi Kumar, R/o Venkatapuram, Dt.20.02.2006
2. From the Collector & District Magistrate, Khammam District, Lr.Rc.No.Even, Dt.21.02.2006 addressed to the RDO, Bhadrachalam
3. From the Sub-Collector Bhadrachalam, Lr.No.E/4/2006, Dt.16.11.2007
4. From the Collector & District Magistrate, Khammam District, Notice in Form-V, Dt.13.01.2008
5. District Level Scrutiny Committee, O/o the Collector & District Magistrate, Khammam District, Resolution, Dt.10.05.2008
6. From the Collector & District Magistrate, Khammam District, Procs.No.D3/510/2006, Dt.03.04.2011
7. Sri Tati Venkata Siva Kumar, R/o Venkatapuram, Appeal Petition, Dt.09.09.2011
8. Government Memo.No.3442/C1/2011, dated 03.10.2011.
9. From the Collector and District Magistrate, Khammam District Lr.No.D3/510/2006, dated 07.12.2011.

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ORDER

In the reference 6th read above, the then Collector & District Magistrate, the then Khammam District now Jayashankar Bhupalapally District had issued Proceedings cancelling the 'Tenugollu (BC-D)' Caste Certificate of Sri Tati Venkata Siva Kumar, R/o Venkatapuram, issued by the Mandal Revenue Officer, Aswapuram, the then Khammam District now Bhadradri Kothagudem District.

2. In the reference 7th read above, Sri Tati Venkata Siva Kumar had submitted an appeal petition to Government on the orders passed by the then Collector & District Magistrate, Khammam District.

3. In the reference 8th read above, Government had requested the Collector & District Magistrate, the then Khammam District to furnish Para-wise remarks along with connected records to Government.

4. In the reference 9th read above, the then Collector & District Magistrate, Khammam District, had furnished the records. The Collector & District Magistrate, Khammam District had reported that based on the complaint petition received from Sri N.Ravi Kumar, R/o Venkatapuram alleging that Sri Tati Venkata Siva Kumar, R/o Venkatapuram who belongs to Kapu (OC) has fraudulently obtained bogus BC(D) Caste Certificate from the Mandal Revenue Officer, Wazeedu, by misrepresenting the facts, the Collector & District

Magistrate, Khammam had directed the RDO, Bhadrachalam for detailed enquiry. The RDO Bhadrachalam had conducted enquiry and submitted a detailed report on the social status of Sri Tati Venkata Siva Kumar, S/o Chandra Sekhar stating that Tati Venkata Siva Kumar produced a certificate of B.C.-D Tenugollu issued by the Mandal Revenue Officer, Aswapuram only and did not produce any evidence for the B.C. Certificate obtained by him. The Sub Collector, Bhadrachalam concluded that Tati Chandra Sekhar Rao obtained a bogus certificate for himself from the Mandal Revenue Officer, Venkatapuram and also his son from the Mandal Revenue Officer, Aswapuram and the same are liable to be cancelled. Based on the Enquiry Report of the Sub Collector, Bhadrachalam, the individual was served notice to appear before the District Level Scrutiny Committee (DLSC), Khammam to prove his caste as claimed by him. The DLSC, Khammam after cross examining Sri Tati Venkata Siva Kumar and his father Sri Chandrasekhar Rao, opined that it is duty bound of the competent authority to satisfy himself and verify the caste before issuing any caste certificate, before him whatever the claim is made and unanimously resolved to cancel the certificates. Based on the report of DLSC, the Collector & District Magistrate, Khammam has cancelled the caste certificate issued to Sri Tati Venkata Siva Kumar vide Proceedings Rc.No.D3/510/2006, dated 03-04-2011, in exercise of the powers conferred under Section 5(1) of the A.P.(SC/ST/BC) Regulation of issue of community certificate Act 16/1993 r/w Sub-Rule (7) of Rule 9 of AP (SC/ST/BC) issue of Community, Nativity and Date of Birth Certificate Rules, 1993.

5. Aggrieved by the above orders, Sri Tati Venkata Siva Kumar had filed an appeal before the Government, under Rule 11 of the AP SCs, STs & BCs Issue of Community, Nativity & Date of Birth Certificate Rules, 1993, and requested to set aside the orders passed by the Collector & District Magistrate, Khammam District and pass such other suitable order or orders in the circumstances of the case.

6. The applicant, Sri Tati Venkata Siva Kumar in his appeal petition has submitted the following grounds in support of his social status as "Tenugollu" (BC-D):

- i. The order passed by the learned District Collector is contrary to law, material evidence on record, facts and circumstances of the case.
- ii. The learned Collector ought to have seen that a complaint has been filed only to harass the family of the appellant and also to effect the service conditions of the appellant and it was filed with malafide intention.
- iii. The learned Collector ought to have seen that the contents in the complaint are false and the appellant never obtained caste certificate from the MRO, Wazeedu, as such there is no basis for the said complaint.
- iv. The respondents ought to have seen the appellant father, who was a ex-service man had obtained caste certificate long ago i.e., 9-6-1984 since he belongs to Tenugollu BC (D) community, even other family members are also having certificates duly issued by the competent authority, as such the contention of the respondent is not tenable.
- v. The respondent erred in passing impugned order without conducting thorough enquiry and without providing proper opportunity has issued order, which is ex-facie illegal, arbitrary and violation of principles of natural justice.

vi. The respondent ought to have seen that father's certificate is dated.09.06.1984 initiation of proceedings at this juncture is not maintainable, and without jurisdiction.

7. Government after careful examination of the matter and after obtaining the advice of State Level Scrutiny and Review Committee, observed the following:-

a. Under Section (6) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community Certificates Act 1993, regarding burden of proof reads as follows:

"Sec.6: Where an application is made to the competent authority under section 3 for the issue of a community certificate in respect of Scheduled Castes, Scheduled Tribes or Backward Classes or in any enquiry conducted by the competent authority or the authority empowered to cancel the community certificate or the appellate authority under this Act or in any trial or offence under this Act, the burden of proving that he belongs to such Castes, Tribe or Class shall be on the claimant". As seen from the above, the burden of proof lies with the claimant and not on the Government. Admittedly, the District Level Scrutiny Committee (DLSC) under the Chairmanship of the District Collector & Magistrate, Khammam comprising the following other members:

1.	Joint Collector	Chairman
2.	District Revenue Officer	Member Convenor
3.	Deputy Director (Social Welfare)	Member
4.	Deputy Director (Tribal Welfare)/ District Tribal Welfare Officer	Member
5.	Deputy Director (Backward Classes Welfare)/District Backward Classes Welfare Officer	Member
6.	Officer of the Research Organization in the Commissionerate of SW/TW nominated by the Concerned heads of the Departments	Member
7.	Officer representing the PCR/ Vigilance Cell in the District	Member

b. The District Level Scrutiny Committee in this case issued notices to the appellant to appear either in person or through an Advocate to prove his claim as he belongs to such caste for seven times as detailed below:-

"13.01.2008, 05.02.2008, 22.02.2008, 25.04.2008, 20.05.2008, 18.06.2008 and 04.10.2008".

- c. As could be seen from the record of the enquiry, the appellant failed to appear either in person or through an Advocate on any of the above seven times to prove his claim.
- d. As per the procedure established by law, the appellant is duty bound to appear before the District Level Scrutiny Committee, adduce evidence, both oral and documentary to prove his claim that he belongs to one of the Backward Classes. In this case, admittedly the appellant has no respect for the authority of the law which gave seven opportunities to adduce evidence and also to appear in person. The reasons for not appearing before the District Level Scrutiny Committee are known only to the appellant. The obvious reason could be that he has no evidence to produce. However, the following judgment, the Supreme Court of India held that

"New plea in appeal not permissible" (article 133)

"New point of law cannot be allowed to be raised for the first time in appeal without any foundation of facts in pleadings to support it".

AIR 1975 SC 1103

"For permitting new plea, it has to be satisfied that the case involves substantive question of law"

AIR 1997 SC 2517

"Practice of filing fresh documents or evidence before Supreme Court deprecated"

AIR 1998 SC 707

"Subsequent developments or facts, if found really genuine and important in effectively deciding issues to do substantial justice or prevent miscarriage of justice, to be taken into consideration by courts even at appellate stage".

2000 (4) SCALE 491.

- e. In the light of the continuous abuse of benefits, the Supreme Court in Madhurai Patil's case directed the scrutiny of all the Community Certificate. The said process is undertaken by the District Level and State Level Committees.
- f. Similar view was reiterated in Director of Tribal Welfare, Government of AP Vs. Laveti Giri (1995) 4 SSC 32. In

the case of Punit Rai Vs. Dinesh Chaudary (2003) 8 SSC 204 this Court at page 221 in para 39 observed as under:- "39. A person in fact not belonging to the Scheduled Caste, if claims himself to be a member thereof by procuring a bogus Caste Certificate would be committing fraud on the constitution. No Court of Law can encourage Commission of such fraud.

- g. State of Maharashtra Vs. Milind and others. 2001 (1) Mh.L.J. (S.C). However, we are unable to accede to this contention and request. Again in Raju Ramsingh Vasave (Supra), in Para 21. Their Lordships observed as follows:- "We reiterate that to fulfill the Constitutional norms, a person must belong to a Tribe before he can stake his claim to be a member of a notified Scheduled Tribe. When an advantage is obtained by a person in violation of the Constitutional scheme, a Constitutional fraud is committed".
- h. In Priyanka Omprakash Panwar Vs. State of Maharashtra and others 2008 (1) Mh.L.J.715, a degree, diploma or educational qualification required by a person after securing to an educational institution on the basis of a Caste Certificate which is subsequently proved to be false shall also stands cancel, on cancellation of the Caste Certificate by the Scrutiny Committee. Having considered the said provisions, the Division Bench refused to accede to the prayer for protection of the Degree of educational qualification in view of the specific legal provisions applicable in the State of Maharashtra. When the petitioner has secured admission to a Medical Course on the basis of a caste claim which is found to be false, she cannot be given protection against cancellation of such admission.
- i. See Dr.Vimala Vs. Delhi Administration (1963 Supp. 2 SCR 585) and Indian Bank Vs. Satyam Febres (India) Pvt. Ltd., (1996 (5) SCC 550). A "Fraud" is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. Fraud and deception are synonymous.
- j. In Lazarus Estate Vs. Berly [(1956) 1 All ER 341] the Court of Appeal stated the law thus: "I cannot accede to this argument for a moment "no Court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a Court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. "The Court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever."
- k. In S.P. Chegalyaraya Naidu Vs. Jagannath [(1994) 1 SCC 1] this Court stated that fraud avoids all judicial acts, ecclesiastical or temporal." An act of fraud on Court is

always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would, render the transaction void ab initio. Fraud and deception are synonymous.

- l. In *M.Kalimuthu Vs. The Collector* – Writ Petition No.945 of 1998 [2001] RD-TN 6 (11 December 21) IN THE HIGH COURT OF JUDICIATURE AT MADRAS DATE.11.12.2001 THE HONURABLE MR.JUSTICE P.SHANMUGAM Writ Petition No.945 of 1998 that there is “menace of fabricating the false records and to gain unconstitutional advantages by pain/spurious persons could be prevented. Lest they would defeat the Constitutional objective of rendering socio-economy justice envisaged under Article 46 in the Preamble of the Constitution under Articles 14, 15, 16, 38 and 39.” It is open to the authorities who have issued the certificates, especially the higher authorities of the person who has issued the certificate as Head of the Department of Revenue, to verify the genuineness of the certificate.
- m. Securing employment on the basis of false Caste Certificate cannot be allowed to retain the benefit and is liable to be terminated.

False production of Caste Certificate – Termination at any time valid.

2005(7) SCC 690 : (2005 (7) SCALE 272

2007 (5) SCC 336

SC/ST Certificate.

Scrutiny Committee reached to a conclusion on enquiry that the candidate was not Hindu and never followed Hinduism.

Finding of Committee cannot be assailed in Supreme Court

2005 (8) SCALE 288

Community Certificate – Cancellation – Copy of report of Scrutiny Committee based upon should be furnished to the holder.

2009 (2) ALT 10

Before cancellation of Caste Certificate show cause notice to be issued.

2009 (10) SCALE 614

Caste Certificate – Appointment – Verification – found bogus – termination.

Appointment got by misrepresentation would be non-est in law.

2010 (2) ALD 330

Appointment – OBC category Certificate produced – later found false and inaccurate – Enquiry – Show cause notice cancellation upheld.

2004 (6) SCALE 224

Direction for deciding the claim of person who belong to SC/ST or other OBCs are given.

(1994) 6 SCC 241

Reiterated in 2011(11) SCALE 448

Conclusions arrived at by the Scrutiny Committee to cancel ST Certificate – High Court and Supreme Court not interfered

2011 (13) SCALE 449

Caste Certificate – Detailed enquiry by RDO and report – Conclusions in enquiry based on material documents like SSLC Register – Detail Cancellation Order by Collector discussing all material documents relied in inquiry – Not vitiated.

AIR 2001 Madras 49.

Onus to prove caste lies on the candidate

1995 (2) SLR 595 SC

8. Further, the Andhra Pradesh High Court order dated; 28.09.2011 in W.P.No.27093/2011 has directed the 1st respondent i.e., Government to dispose off the appeal pending on his file against the order of the 2nd respondent i.e., District Collector, Khammam Dated.03.04.2011, following due process of law as expeditiously as possible preferably within a period of three months from the date of receipt of copy of this order. Till such time, the order dated.03.04.2011 passed by the 2nd respondent shall not be given effect to.

9. As per the decision reported in Taylor, 12th Edition S. 365 p.252, under Part III, Production and Effect of Evidence, Chapter VII, the Burden of Proof, [Ratanlal & Dhirajlal, The Law of Evidence, Nineteenth Edition Reprint 1999 p.303] which reads as follows:-

“The burden of proof lies on the party who substantially asserts the affirmative of the issue and not upon the party who denies it. This rule of convenience has been adopted in practice, not because it is impossible to prove a negative, but because the negative does not admit of the direct and simple proof of which the affirmative is capable. Moreover, it is but reasonable and just that the suitor, who relies upon the existence of a fact, should be called upon to prove his own case. In the application of this rule, regard must be had to the substance and effect of the issue, and not to its grammatical

form, for in many cases the party, by making a slight alteration in the drawing of his pleadings, may give the issue a negative or affirmative form, at his pleasure." Further, as per decision in Shiv Charan Singh V. Chandra Bhan, AIR 1988 SC 637 reads as "The party on whom the onus of proof lies must, in order to succeed, establish a prima facie case. He cannot, on failure to do so, take advantage of the weakness of his adversary's case. He must succeed by the strength of his own right and the clearness of his own proof. He cannot be heard to say that it was too difficult or virtually impossible to prove the matter in question".

10. Perusal of the Complaint filed in the case by one Sri N.Ravi Kumar R/o Venkatapuram in reference 1st read above, reads as follows:-

"వెంకటాపురం మండలం, వెంకటాపురంలో నివాసముంటున్న తాటి. చంద్రశేఖర్ గారి కుమారుడు, తాటి. శివ వారు తాత ముతాతలనుండి కూడా వెంకటాపురం వాస్తవ్యులే వలస వచ్చిన వారు కాదు , తూర్పు కాపు అసలు కాదు కాని తూర్పుకాపు అని వాజేడు మండలంలో ఒక గ్రామంలో నివాసం వుంటున్నట్లుగా సృష్టించినట్లుగా సృష్టించి అక్కడి **R.I.** గార్కి వేలాది రూపాయలు లంచం ఇచ్చి తూర్పు కాపు **BCD** గా సర్టిఫికేట్ తీసుకున్నాడు.

కాని చంద్రశేఖర్ గారు వెంకటాపురంలో పుట్టి **10th class** ఫాసయిన తర్వాత మిలటరీలో సిపాయి ఉద్యోగంచేశాడు. రిటైరైన తర్వాత మరల అశ్వాపురం **Heavy Water Plant** లో డిస్సావ్ క్లర్ గా పనిచేశాడు అందులో కుళడా రిటైరై ఇప్పుడు కూనవరం మండలం భీమవరం గ్రామంలో ఇల్లు కొనుక్కొని నివాసముంటు న్నాడు.

కాని చంద్రశేఖర్ గారు (**T.C.S. Rao**) వెంకటాపురంలో వున్నప్పుడు వెంకటాపురం **M.R.O** గారిని చాలాసార్లు నాకుమారుడు శివ కు కాపు (**OC**) అని వుంది కాబట్టి వారు తుర్పు కాపు **BC-D** గా సర్టిఫికేట్ ఇవ్వండి అని డబ్బు ఆశ చుటపాడు కాని **M.R.O** గారు మీరు మియా తండ్రి గారు తాతగారు పుర్వ నుండి ఈ మండలంలోనే ఉంటున్నారు కావునా మీకు **BC-D** సర్టిఫికేట్ ఇవ్వడం కుదరదు ఇస్తే మా ఉద్యోగాలు పోతాయి అని చెప్పడం జరిగింది.

చంద్రశేఖర్ గార్కి 5 గురు అన్నదమ్ములు వారిలో తాటి.తుగంధర్ వెంకటాపురం మండలంలోనే **Govt. school** లో టీచర్ గా పనిసుతుసున్నాడు. అతనికి కుడా కాపు (**OC**) అనే వున్నది. అతని పిల్లలు చదువుకున్నారు వారి పిల్లలకు కాపు (**OC**) అనేవున్నది. ముగాతా 3 గురు అన్న దమ్ములు కాడువులు లేవు.

తాటి.చంద్రశేఖర్ కుమారుడు తాటి.శివ చిన్నప్పటి నుండి కుళడా అశ్వాపురం **Heavy water plant school** లోనే చదువుకున్నాడు. **School**

Record లో కుఆడా కాపు (OC) అనేవున్నది అతని టి.సి లో కుఆడా కాపు (OC) అనేవున్నది. అయిన్నప్పటికీ లంచం యిచ్చి **BC-D** సర్టిఫికేట్ పొంది **Central Govt.** లో గుజరాత్ రాష్ట్రంలోని బరోడాలో సుమారు 4 నెలల క్రితం ఉద్యోగం పొందాడు. శివ విద్యారాతలు **Diploma Petro Chemicals.**

కావునా అర్జులైన **OBC** సర్టిఫికేట్ పెట్టిన తాటి.శివకు ఉద్యోగం వచ్చి అసలైన వారికి అన్యాయం జరిగింది. కావునా వెంటనే తగిన చర్య తీనికొని న్యాయం చేయవలసిందిగా ప్రార్థిస్తున్నాను.

తాటి. చంద్రశేఖర్ (T.C.S. Rao) కుమారుడు తాటి.శివ BC-D సర్టిఫికేట్ దొంగది అని నిర్ధారించుటకు ఈక్రింది ముఖ్యం శాల్ ఆధారం:-

1. తాటి.శివ **School Record (Heavy Water Plant)** లో **10th** వరకు కాపు (OC) అని వుండుట. ఇతడు **10th** వరకు **English Medium** లో చదివాడు.
2. తాటి.చంద్రశేఖర్ ఉద్యోగం చేశాడు అతని రికార్డులో కూడా కాపు (OC) అని వున్నట్లు, ఇతని అన్నదమ్ములకు కాపు (OC) అని వుండుట.
3. చంద్రశేఖర్ తమ్ముడు తాటి.యుగంధర్ వెంకటాపురం మండలంలో **Govt. school** టీచర్ గా పనిచేస్తున్నాడు అతని **Record S.R.** లోను కాపు (OC) అని వుండుట.
4. తాటి.చంద్రశేఖర్ తండ్రి తాటి. వరదయ్యకు వేమ్మతాపురంలోనే గత 100 సం.ల నుండి స్థిరాస్తులు భూములు ఉన్నాయి, పక్కా భవనాలు ఉన్నాయి. ఆ భూముల పట్టాలో మరియు పాస్ పుస్తకాల్లో కూడా పూర్వ నుండి కాపు (OC) అని ఉండుట.
5. వెంకటాపురం మండలంలో పుట్టి అక్కడి **M.R.O, BC** ఇవ్వలేదని వేరే మండలంలో **BC** తీసుకొనుట మరల ఆ **BC** సర్టిఫికేట్ తెచ్చి కొంతకాలానికి వెంకటాపురంలో మరల తీసుకొనుట”.

11. Admittedly, perusal of the orders passed in the reference 6th read above, reads as follows:-

“The Sub- Collector, Bhadrachalam submitted detailed report on the social status of Sri Tati Venkata Siva Kumar S/o Chandra Sekhar stating that Tati Venkata Siva Kumar produced a certificate of BC-D Tenugollu issued by the Mandal Revenue Officer, Aswapuram only and not produced any evidence for the B.C. Certificate obtained by him. The Sub Collector, Bhadrachalam has concluded that Tati Chandrasekhara Rao obtained a bogus certificate for him self from the Mandal Revenue Officer, Venkatapuram and also his son from the Mandal Revenue Officer, Aswapuram and the same are liable for cancellation.

On the inquiry report of the Sub-Collector, Bhadrachalam, the individual has been served notice in Form-V to appear before

the District Level Scrutiny Committee (DLSC) Khammam to prove his caste as claimed by him. Sri Siva Kumar's father appeared before the DLSC and requested time. After giving opportunities for (7) times Sri Tati Chandrasekhar or his family members have not raised up to the occasion and responded with appropriate material evidence.

At time of Cross examination the applicant requested to resolve the caste certificate issued by the Mandal Revenue Officer, Venkatapuram vide Rc.No.C/1507/05, Dated.15.07.2005, as TENUGOLLU (BC-D) & Caste Certificate issued by the Mandal Revenue Officer, Aswapuram to Sri Tati Venkata Siva Kumar, S/o Chandrasekar Rao vide D/2001/1999, Dated:24.11.1999.

Whereas, it has been brought to the notice of the Government that candidates who seek employment in Government Departments, Public Sector Undertakings and such other organizations and candidates seeking admission into educational institutions against the vacancies or, as the case may be, the seats reserved for the Schedules Castes, Scheduled Tribes and Backward Classes are producing false community certificates and Securing employment or seats, as the case may be. And whereas, by securing such employment or admission on the basis of false community certificates the benefits of special provisions made for the advancement of the schedule Castes, Scheduled Tribes and the Backward Classes in the matter of public employment and educational opportunities are not reaching such Castes, Tribes and Classes; And whereas, the Government have debited to curb effectively the evil practice of producing false community certificates by devising a strict procedure for the issue of such certificates and prescribing different punishment to those who produce false community certificates. Rules under this Act were framed in G.O.Ms.No.58, Dated 12th May, 1997, where Integrated Community, Nativity and Date of Birth Certificate will be issued to the applicants.

The DLSC, Khammam on 17.10.2008, after cross examining Sri Tati Venkata Siva Kumar and his father who were present by asking certain questions with regard to their caste, clan (gotram), systems of marriage which differs from Kapu, Turupu Kapu and Munnuru Kapu, and other matrimonial relationship, and other caste certificates of rest of their family members. Sri.Tati Venkata Siva Kumar and his father deposed that, they are not at all aware of the answers, and requested to take action as per the material available on record. The District Level Scrutiny Committee, Khammam have opined that after obtaining caste certificate, the candidate must be ever ready to prove his caste, whatever the claim is made, or else it will be a deception and cheating to get an advantage which are earmarked for the eligible beneficiaries or candidates.

The DLSC, Khammam unanimously resolved that the Caste Certificate of Sri Tati Venkata Siva Kumar, S/o Chandrasekhar Rao, by concluding the material evidence produced and oral evidence adduced by the Sri Tati Chandrasekhar Rao F/o Tati Venkata Siva Kumar as it is the

responsibility of the parents to genuinely inform the caste and inculcate the caste habits, traits and impart customary procedures to their children from their childhood. The DLSC unanimously decides that the parent himself is unable to depict the facts and other customary methods as whatsoever the claim made by his son. To sustain such constitutional benefits the family are the candidate must always be ready. In a straight case of Anjan Kumar v/s Union of India, the Hon'ble Supreme Court Appeal (civil) 6445 of 2000.... A person, in the absence of a statutory law, would inherit his caste from his father and not his mother even in a case of inter-caste marriage.

Sri Tati Chandrasekhar, F/o Tati Venkata Siva Kumar who was present before the DLSC has answered nothing expert to go by material record. Basing on only on Xerox copy of Caste Certificates, Copy of Transfer Certificate, copy of Employment Registration and Copy of Resident Certificate even without attestation and insufficient documentary evidence, the DLSC cannot confirmed any benefit which is reserved to the genuine candidates.

With the laudable object of promoting the educational, economic and social advancement of the Backward Classes and Scheduled Castes and Scheduled Tribes, the Government had been awarding scholarships, hostel accommodation and the facilities, making reservation of seats in Professional Colleges and institutions of higher learning and for appointments to Government and quasi Government jobs. But not infrequently, false certificates are obtained by others to obtain these benefits thus depriving the persons for whose advantage these benefits are created. The false claim in this case which escaped the scrutiny of even the High Court had to be those who wish to lay bare the facts, so long as the benefits are continued for these classes, the caste certificate issuing competent authorities must exercise strict scrutiny. The caste certificate issuing authorities must stop any fraud which may be committed on it as well as these classes of people by taking appropriate steps to grant certificates, while at the same time ensuring that persons belonging to these classes obtain the requisite certificates without difficulty from the authorities empowered to issue the same. This is clearly a fraudulent misrepresentation is called deceit and consists in leading a person into damage by willfully or recklessly causing him to believe and act in falsehood.

The object of reservation is to remove these handicaps, disadvantages, sufferings and restrictions to which the members of the Dalits or Tribes or OBCs were subjected and was sought to bring them in the mainstream of the nation life by providing them opportunities and facilities. The impact of procuring fake/bogus caste certificate and obtaining appointment/admission from the reserved quota will have far-reaching grave consequences. The meritorious reserved candidate may be deprived of reserved category for which the post is reserved. This is the final stage in vogue, concluding the facts. Respecting the principles which are already in vogue, and to prevent future injurious effects from

other ends the case is decided on exercise of merits on the material available on record. It has been laid down by a series of decisions by the Supreme Court that the burden of proving the community status of the person is on the person who claims such a status. Each social status claim has to be independently considered. In specific cases where it is brought to the notice of the authorities that a particular certificate has been obtained by wrong representation, it is always open to the authorities to cancel the certificate after giving notice and holding enquiry.

It is seen that the question that a person belongs to a particular caste or community or religion is basically a factual determination. The burden of establishing a social status is always on the person claiming such a status. Though the parties manage to gain falsely social status as Tribe and wrongfully and unconstitutionally is in enjoyment of the benefits of employment as a tribe, it is not conclusive. It is not uncommon to corner such benefits because of connivance of officers and it is a known fact that the tribes of such officers has grown over years because the social crimes committed by them is either ignored by the superiors of their class or establish whether a particular candidate belong to any of the Scheduled Tribes/ group diverse ethnic or cultural identities were mentioned.

In the light of the continuous abuse of these benefits, the Supreme Court, in Mandhurai Patil's case, referred to above, directed the scrutiny of all the community certificates. The said process is undertaken by the District Level and State Level Committee".

12. Admittedly, the appellant was given adequate opportunities viz., the District Level Scrutiny Committee (DLSC), had given adequate opportunities to the appellant, herein, by giving opportunities for seven times, to prove his claim that he belongs to 'Tenugollu' B.C. 'D' caste on the following dates (1) 13.01.2008, (2) 05.02.2008, (3) 22.02.2008, (4) 25.04.2008, (5) 20.05.2008, (6) 18.06.2008, (7) 04.10.2008. The State Level Scrutiny Committee (SLSC) has also given opportunities three times on 18.02.2013, 04.03.2013 and 04.03.2013, to prove his claim as Tenugollu BC-'D'. **Further, during the inquiry conducted by the Sub-Collector, Bhadrachalam, Khammam on 16.05.2006, Sri Tati Chandrasekhar, father of the appellant, deposed that he will produce Pattadar Pass Book/Title Deeds, School Records of his son and his own brother's caste certificates to prove that he belongs to Tenugolu BC-D caste. But, till the submission of report on 16.11.2007, the applicant father had not produced any documents. Further, he had produced only Xerox copies of the caste certificates, Transfer Certificate, Employment Registration and Resident Certificates without any attestation on them before the DLSC. The DLSC, in view of insufficient documentary evidence, based on only Xerox copies cannot confirm any benefit which is reserved to genuine candidate. Thus, neither, the appellant nor his father has produced any original documentary evidence of their relatives to prove the genuineness of their caste. Further, as per the detailed enquiry report Dt.22.03.2013 of the District BC Welfare Officer, Khammam District, the Administrative Officer of Heavy Water Plant, Manugur, where, the appellant is**

employed as Scientific Assistant, have reported that, they have reported the fact of the case to their higher authorities, reporting that his caste is shown as Kapu. Moreover, the DBCWO have reported that he had contacted the mother-in law and father-in-law of the appellant, who are residence of Kothagudem, and contacted the neighbors of the family, they have stated that they belongs to Kapu, which comes under OC Community and he personally met with the colleagues of the appellant to enquire in this issue and his colleagues also stated that, he belongs to Kapu, Community.

13. In view of the above facts and the Judgments of the Supreme Court of India, as mentioned above, Government hereby reject and dismiss the appeal petition filed by Sri Tati Venkata Siva Kumar in exercise of the powers conferred under Section 7(2) of Telangana (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993) (Telangana Adaptation) Order, 2014, issued by Government of Telangana vide G.O.Ms.No.5, SCD (POA.A2) Department, Dt.08.08.2014 read with G.O.Ms.No.2, SCD(POA.A2) Dept., Dt.22.01.2015 and uphold the Proceedings of the then District Collector, Khammam District issued vide Rc.No.D3/510/2006, dated 03.04.2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**B.VENKATESHAM
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)**

1. Sri Tati Venkata Siva Kumar, S/o Chandrasekhar Rao,
R/o Q.No.B-323, Heavy Water Colony, Aswapuram
Village and Mandal, Bhadradi Kothagudem District
2. The Collector & District Magistrate,
Bhadradi Kothagudem District and Jayashankar Bhupalapally District
3. The Commissioner, Backward Classes Welfare,
Telangana State, Hyderabad
4. The Tahsildar, Venkatapuram Mandal, Jayashankar Bhupalapally District

Copy to:

The Additional Director General of Police,
CID, Telangana, Hyderabad
The Superintendent of Police,
Jayashankar Bhupalapally District
The Chief Administrative Officer,
Department of Atomic Energy, Heavy Water Plant (Manuguru),
Government of India, Gautaminagar Post, Aswapuram Mandal,
Bhadradi Kothagudem District
PS to Minister for BC Welfare,
Telangana Secretariat, Hyderabad
PS to Principal Secretary, Backward Classes Welfare
Department, Telangana Secretariat, Hyderabad
SF/SC

// FORWARDED: BY ORDER //

SECTION OFFICER